



NOTICE OF PUBLIC HEARING

Notice is hereby given that the **Town Council** of the Town of Herndon, Virginia, will hold work sessions on Tuesday, April 5 and Tuesday, April 19, 2022, at 7:00 p.m. in the Herndon Police Department Community Room, located at 397 Herndon Parkway, Herndon and public hearings on Tuesday, April 12 and Tuesday, April 26, 2022, at 7:00 p.m. in the Herndon Council Chambers Building, located at 765 Lynn Street, Herndon on the following item.

Ordinance, to amend Chapter 30 (FINANCE AND TAXATION), Article VII (Business, Professional, Occupational License), Division 1 (Generally), Section 30-211 (Definitions), Section 30-246 (Enumeration), and to add Section 30-266 (Personal, Business Services, and all other business occupations not specifically listed), to recognize the massage therapist occupation as a business and to classify massage therapist for BPOL tax purposes.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. The following sections or provision of the Herndon Town Code (2000), as amended, are amended and re-ordained as follows:

CHAPTER 30 (FINANCE AND TAXATION)

ARTICLE VII. BUSINESS, PROFESSIONAL, OCCUPATIONAL LICENSE

DIVISION 1. GENERALLY

Sec. 30-211. Definitions

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Massage means the treatment, for compensation, of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body, unless the massage is excluded from regulation by Code of County of Fairfax § 28.1-1-4.

Massage establishment means any fixed place of business where a massage is administered to a client, unless the place is excluded from regulation by Code of County of Fairfax § 28.1-1-4.

Massage therapist means any individual certified as a massage therapist by the Board of Nursing of the Commonwealth of Virginia.

Operator of coin-operated machines means any person selling, leasing, renting or otherwise furnishing or providing a coin-operated amusement machine operated on the coin-in-the-slot principal; provided, however, that this term shall not include a person owning fewer than three coin-operated machines and operating such machines on property owned or leased by such person.

DIVISION 2. FEES AND TAXES

Sec. 30-246. Enumeration

(b) There is no fee for the issuance of such license. In addition to the license tax specified in subsection (a) of this section, and except as may be otherwise provided in this article or in Code of Virginia, §§ 58.1-3712, 58.1-3712.1 and 58.1-3713, every such person or business with annual gross receipts, purchases, or retail or wholesale sales, as appropriate, of more than \$100,000.00 shall be assessed and required to pay annually a license tax on all the gross receipts, purchases, or retail or wholesale sales, as appropriate, of such persons includable as provided in this article at a rate set forth in this subsection (b) for the class of enterprise listed:

- (1) For contractors and persons constructing for their own account for sale, \$0.13 per \$100.00 of gross receipts (Code of Virginia, § 58.1-3706 A.1);
- (2) For retailers, including those engaged in the short-term rental business as defined in Code of Virginia, § 58.1-3510.4(B) (however defined), (but excluding those engaged in commercial leasing covered by section 30-265) \$0.13 per \$100.00 of gross receipts (Code of Virginia, § 58.1-3706 A.2);
- (3) For financial, real estate and professional services, \$0.40 per \$100.00 of gross receipts (for the license tax for money lenders, see section 30-252) (Code of Virginia, § 58.1-3706 A.3);

- (4) For personal and business services and all other businesses and occupations not specifically listed or exempted in this article or otherwise by law, \$0.21 per \$100.00 of gross receipts (for the license tax for repair services, see section 30-263) (Code of Virginia, § 58.1-3706 A.4);
- (5) For wholesalers, including peddlers at wholesale, \$0.05 per \$100.00 of purchases (Code of Virginia, §§ 58.1-3718, 58.1-3719);
- (6) For carnivals, circuses and speedways, \$0.00 for each performance held in this town (Code of Virginia, § 58.1-3728);
- (7) For fortunetellers, clairvoyants and practitioners of palmistry, \$500.00 per year (Code of Virginia, § 58.1-3726);

~~(8) For massage parlors, \$1,000 per year (Code of Virginia § 58.1-3706);~~

- ~~(9)~~**(8)** For itinerant merchants or peddlers (except as provided below), \$12.50 per week, not to exceed \$500.00 per year (Code of Virginia, § 58.1-3717);
- ~~(10)~~**(9)** For photographers, \$30.00 per year (Code of Virginia, § 58.1-3727);
- ~~(11)~~**(10)** For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public, \$1,000.00 per year (Code of Virginia, § 58.1-3729);
- ~~(12)~~**(11)** For savings and loan associations and credit unions, \$50.00 per year (Code of Virginia, § 58.1-3730); and
- ~~(13)~~**(12)** For direct sellers as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of \$4,000.00, \$0.20 per \$100.00 of total annual retail sales, or \$0.05 per \$100.00 of total annual wholesale sales, whichever is applicable (Code of Virginia, § 58.1-3719.1). Direct sellers are governed by rules governing emerging businesses set out in section 30-247(b)—(d).

Sec. 30-266. Personal, Business Services, and all other business occupations not specifically listed.

Every person conducting or engaging in any personal service occupation, businesses, trades, or callings not specifically classified as “financial, real estate, or professional service” shall pay an annual license tax of \$0.21 per \$100.00 of gross receipts of the base year. The license tax imposed by this section shall be in addition to any other specific town license tax. Massage therapists and massage establishments under this chapter should be considered as other business occupation for business tax purposes so as long as they are in compliance with Chapter 14-70 Massage Regulation.

2. This ordinance shall be effective on and after July 1, 2022.

The proposed item is available for review by the public on the town’s website www.herndon-va.gov beginning at 3:00 p.m. on Friday, prior to the meeting.

The public is encouraged to participate in the town’s public hearing process. Individuals having an interest in the above item are invited to attend the public hearing and to state their opinions. Individuals may submit comments to town.clerk@herndon-va.gov

The Town of Herndon supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities, so that they may participate in services, programs, or activities, offered by the Town. Please call (703) 435-6804 to arrange for any accommodation that may be necessary to allow for participation.

Viki L. Wellershaus, Town Clerk

Note to Publisher:

Publish on April 1 / April 8, 2022